

Filed for intro on 02/16/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate No. SB1683  
By Wallace

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AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 16, and Title 66, Chapter 19, relative to the towing, storage and disposition of unclaimed or abandoned motor vehicles and the enforcement of towing liens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-16-101, is amended by deleting such section in its entirety, and by substituting instead the following new language:

55-16-101.

(a) Whenever a motor vehicle has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for a period of more than thirty (30) consecutive days, the owner of such garage, trailer park or lot shall report in writing the make, license number (if available), and vehicle identification

number of such motor vehicle to the department of safety at its office in Nashville.

(b) Nothing in this section shall apply where the owner of a motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park, storage or parking lot and where such motor vehicle owner has made arrangements for the parking or storage of such motor vehicle for a longer period of time than thirty (30) days, or where the vehicle is parked or stored under authority of Section 55-16-104 and the last known registered owner of the vehicle has been notified pursuant to Section 55-16-105.

SECTION 2. Tennessee Code Annotated, Section 55-6-102(a), is amended by deleting such subsection in its entirety, and by substituting instead the following new language:

55-16-102.

(a) Any person who fails to submit the report required under Section 55-16-101 within ten (10) days after the termination of the thirty (30) day period shall forfeit all claims for storage or parking of such vehicle, shall be guilty of a Class C misdemeanor, and shall be fined a minimum of ten dollars (\$10.00) for each offense.

SECTION 3. Tennessee Code Annotated, Section 55-16-103, is amended by adding the following language as a new subdivision (3) and by renumbering subsequent subdivisions accordingly:

(3) "Immobile motor vehicle" means any motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer that is immobilized and incapable of moving under its own power due to an accident, mechanical breakdown, weather conditions or other emergency situation; and

SECTION 4. Tennessee Code Annotated, Section 55-16-103, is further amended by adding the following language as a new subdivision (5):

(5) "Unattended motor vehicle" means any motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer or semitrailer that is unattended by the owner or authorized driver and interferes with or impedes the orderly flow of traffic, or a motor vehicle that is unattended by reason of the arrest of the driver of such motor vehicle.

SECTION 5. Tennessee Code Annotated, Section 55-16-104, is amended by deleting such section in its entirety and by substituting instead the following new language:

55-16-104. A police department may take into custody any motor vehicle found abandoned, immobile or unattended on public or private property. In such connection, a police department may employ its own personnel, equipment and facilities or hire personnel, equipment, and facilities for the purpose of removing, preserving, and storing abandoned motor vehicles. Any police department, person or towing firm coming into possession of a vehicle pursuant to this section shall have a possessory lien on such vehicle and its contents for all reasonable charges for towing, storage, and administrative costs required to process such lien and, if required, its foreclosure.

SECTION 6. Tennessee Code Annotated, Section 55-16-105(a), is amended by deleting the first sentence thereof, and by substituting instead the following new language:

Any police department, person or towing firm that takes into custody an abandoned, immobile or unattended motor vehicle shall notify within fifteen (15) days thereof, by certified mail, "return receipt requested", the last known registered owner of the motor vehicle and all lienholders of record that the vehicle has been taken into custody.

SECTION 7. Tennessee Code Annotated, Section 55-16-105(a), is further amended by deleting from the second sentence thereof the words "abandoned motor vehicle" wherever they may appear, and by substituting instead the words "motor vehicle".

SECTION 8. Tennessee Code Annotated, Section 55-16-105(b), is amended by deleting such subsection in its entirety, and by substituting instead the following new language:

(b) If an abandoned, immobile or unattended motor vehicle is taken into custody by a towing firm, the towing firm shall, within forty-eight (48) hours of possession of a vehicle towed and/or stored at the request of the police department pursuant to Section 55-16-106, request a written listing of the name of the last known registered owner of such motor vehicle and lienholder(s), if any, from the department of safety, motor vehicle division. Such request shall be on a form prescribed and provided by the department. Within twenty-four (24) hours of receipt of such a request from a towing firm, the department shall forward, in writing, the name(s) of the last known registered owner and all lienholders of record.

SECTION 9. Tennessee Code Annotated, Section 55-16-105(c), is amended by deleting from the first sentence thereof the words “registered mail” and by substituting instead the words “certified mail”.

SECTION 10. Tennessee Code Annotated, Section 55-16-106(a), is amended by deleting such subsection in its entirety, and by substituting instead the following new language:

(a) If an abandoned, immobile or unattended motor vehicle has not been reclaimed as provided for in Section 55-16-105 within ten (10) days of the mailing of the notice, the police department, person or towing firm in possession of such vehicle shall sell the abandoned motor vehicle at a public auction. Public notice of such sale be made by one (1) publication in one (1) newspaper of general circulation in the county from which the motor vehicle was taken into custody. Such notice may be a small display ad format, but one (1) advertisement may contain multiple listings of all vehicles to be sold in a single auction.

SECTION 11. Tennessee Code Annotated, Section 55-16-106(b), is amended by deleting such subsection in its entirety and by substituting instead the following new language:

(b) The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the

police department, person or towing firm and, upon presentation of such sales receipt, the department of safety shall issue a certificate of title to the purchaser.

SECTION 12. Tennessee Code Annotated, Section 55-16-106(e)(1), is amended by inserting between the words “proceeds of a sale shall be” and the words “held for the owner” in the first sentence thereof the words “deposited with the clerk of the circuit court to be”.

SECTION 13. Tennessee Code Annotated, Section 55-16-107, is amended by deleting such section in its entirety, and by substituting instead the following new language:

55-16-107.

(a) Notwithstanding any other provision of this chapter to the contrary, the police department through its chief officer, after complying with the provisions of Section 55-16-105, may execute a written waiver of its right to sell a vehicle taken into custody under this chapter in favor of a garagekeeper or towing firm in whose possession such vehicle was lawfully placed by the police department under the provisions of this chapter. The garagekeeper or towing firm may then proceed to enforce this lien as provided in Section 55-16-106.

(b) As to third-party purchasers, the sale of the vehicle shall be valid, but the garagekeeper or towing firm shall sell the vehicle in a commercially reasonable manner and failure to do so may subject the garagekeeper or towing firm to suit or monetary damages by either the true owner or a lienholder.

SECTION 14. Tennessee Code Annotated, Title 55, Chapter 16, Part 1, is amended by adding the following language as a new Section 55-16-111:

Section 55-16-111.

(a) A property owner or his agent may immediately remove, or have removed by a tow truck or wrecker, in accordance with the provisions of this section, any motor vehicle left without authorization on such owner's property.

(b) Except for property appurtenant to and part of a single family residence, and except for instances where notice is personally given to the

person in control of the vehicle that the vehicle is not authorized, prior to towing or removing any unauthorized vehicle from private property, the property owner or agent shall post the property with prominent notice reasonably calculated to call such notice to the attention of potential parkers. The notice shall be placed at each driveway access or curb cut allowing vehicular access to the property or, if there are no curbs or access barriers, the notice or sign shall be posted not less than one (1) sign per twenty-five (25) feet of lot frontage. The words "TOW AWAY ZONE" shall be included on the sign in not less than two (2) inch letters. The notice shall also provide the name and phone number of the towing firm authorized to tow unauthorized vehicles, or the name and phone number of the property owner, lessee or agent in control of the property.

(c) The person or firm towing or removing any vehicle pursuant to this section shall, within one (1) hour of completion of such towing or removal, notify the municipal police department, or, in an unincorporated area, the sheriff's department, of such towing or removal, the storage site, the time the vehicle was removed, and the make, model, color, vehicle identification number and license plate of such vehicle.

(d) No vehicle shall be towed from private property except upon express instruction of the owner or person in charge of the private property upon which the vehicle is trespassing. Such instruction for removal shall not be given in advance of the trespass or by blanket or general authorization.

(e) Vehicle entry or break-in for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle and such entry shall not constitute criminal activity on the part of the person towing or removing such vehicle.

(f) When a vehicle has been towed or removed pursuant to this section, it shall be released to its owner, or person in lawful possession of such vehicle,

upon demand, provided that the vehicle owner, or person in lawful possession, pays all reasonable towing and storage charges, and such demand is made between the hours of 8:00 a.m. and 5:00 p.m., prevailing time. Any vehicle owner, or person in lawful possession, shall have the right to inspect the vehicle before accepting its return, and no release waiver of any kind that would release the person or firm towing the vehicle from liability for damages may be required from any vehicle owner, or person in lawful possession, as a condition of release of the vehicle. A receipt showing the name of the company or person towing or removing the vehicle and an itemization of charges shall be provided to the person paying towing and/or storage charges at the time of payment.

(g) Whenever a property owner, or his agent, improperly causes a motor vehicle to be towed or removed, such person shall be liable to the owner or person in lawful possession of the vehicle, for the cost of removal, transportation, or storage of the vehicle, and attorney's fees and court costs, if applicable.

(h) The towing firm authorized to tow or remove, and store, any unauthorized vehicle pursuant to this section shall have a possessory lien on such vehicle and the contents thereof for payment of services performed in compliance with this section.

(i) Disposal of any vehicle in possession of the towing or storage company, not claimed within thirty (30) days after possession, may be effectuated by compliance with Section 55-16-106.

(j) Nothing herein shall prohibit any municipality or county from adopting and enforcing local ordinances or regulations to supervise and regulate the removal of trespassing vehicles from private property; provided, however, that the requirements of this section shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county, including the regulation of compensatory fees for towing and storage.

SECTION 15. Tennessee Code Annotated, Title 66, Chapter 19, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_.

(a) When a motor vehicle has been involuntarily towed or transported pursuant to an order by a police officer, other public authority, or private person or business, or when such motor vehicle has been stolen or misappropriated and its removal from a public right of way has been ordered by a police officer, other public authority, or by private person or business, or when a motor vehicle has been involuntarily towed or transported by an order of a police officer, other public authority, or by private person or business, such police officer, other public authority, private person or business shall attempt to determine from the division of motor vehicles the identity of the registered owner of the motor vehicle as defined in Section 55-1-113 and within ten (10) business days of the removal of such motor vehicle shall attempt to notify the registered owner by certified mail of the make, model, type of body, the serial number of the vehicle, and the requirements for securing the release of such motor vehicle.

(b) In the event a motor vehicle described in subsection (a) is placed in a garage or other storage facility, the owner of such facility shall attempt to provide notice by certified mail to the registered owner within ten (10) business days of recovery of, or taking possession of, such motor vehicle. Such notice shall contain the make, model, type of body, the serial number of the vehicle, and the requirements for securing the release of such motor vehicle. When the owner of such facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a governmental entity.



(c) Any person engaged in the business of storing or towing motor vehicles who has substantially complied with the notice requirements of this section shall have a lien on the motor vehicle for the reasonable or agreed charges for storing or towing the vehicle as long as such vehicle remains in his possession.

(d) Liens under this section shall be enforced by attachment in a court of law or equity. The writ of attachment shall be accompanied by a warrant for the sum claimed to be served upon the registered owner. The clerk of the court in which the suit is brought may issue the attachment writ, no fiat of a judge or chancellor being necessary.

SECTION 16. This act shall take effect July 1, 1995, the public welfare requiring it.